



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

September 22, 2009

Mr. Jim Easton  
Easton Sports Development Foundation  
7855 Haskell Avenue, Suite 350  
Van Nuys, CA 91406

**REVISED EXECUTED COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY IN ACCORDANCE WITH AUGUST 5, 2009, CONDITIONAL NO FURTHER REQUIREMENTS LETTER – PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER – EASTON SPORTS SITE, 7800, 7824, 7834, AND 7850 HASKELL AVENUE, VAN NUYS, CALIFORNIA (SCP NO. 0847, SITE ID 2040313)**

Dear Mr. Easton:

We received a request from your attorney, Mr. Jared Weinstock, to revise the previously executed *Covenant and Environmental Restriction on Property* ("Covenant") documents associated with the Easton Sports Site. The revision consists of removing the phrase "and in the groundwater" from Section 3.3 ("Notice in Agreements") of each covenant. We have agreed to this change because the removal of this phrase more accurately reflects the known environmental conditions at the site, which do not imply that groundwater has been impacted from the Easton Sports site.

Enclosed is an executed and notarized copy of the revised Covenant for each of the following properties (three copies total):

- 7800 & 7824 Haskell Avenue, Van Nuys, California
- 7834 Haskell Avenue, Van Nuys, California
- 7850 Haskell Avenue, Van Nuys, California

Our records show that the previous version of the Covenant for the 7800/7824 Haskell Avenue and for the 7850 Haskell Avenue properties have been filed with the Recorder's Office in Los Angeles County. Therefore, a notation has been made on the enclosed Covenants for these properties that the previous Covenants are superseded. The requirement that the previous version of the Covenant for 7834 Haskell Avenue be recorded by September 30, 2009, is rescinded because of the enclosed revised version.

To meet the conditions of the August 5, 2009, Conditional No Further Requirements letter, these revised Covenants shall be executed and notarized by each of the respective Covenantors. In accordance with section 5.4 of each version of the Covenant, these documents shall be recorded by the Covenantors in the County of Los Angeles within ten (10) days of the date of execution. You are required to provide this Regional Board with fully executed, notarized copies of each *Covenant and Environmental Restriction on Property* and evidence of their recording in the County of Los Angeles by **October 30, 2009**. Upon receipt of these documents, the conditions of the August 5, 2009, Conditional No Further Requirements letter will be considered satisfied.

**California Environmental Protection Agency**



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*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

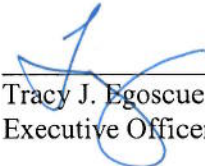
Mr. Jim Easton  
Easton Sports Development Foundation

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September 22, 2009

**Should you have any questions related to this project, please contact Mr. Greg Bishop at (213) 576-6727, or Mr. Dixon Oriola at (213) 576-6803 of my staff, or you can send them e-mails at: [gbishop@waterboards.ca.gov](mailto:gbishop@waterboards.ca.gov) or [doriola@waterboards.ca.gov](mailto:doriola@waterboards.ca.gov).**

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Enclosure:      Executed *Covenant and Environmental Restriction on Property* for the 3 Parcels

cc:      Mr. Jared Weinstock, JAS D. Easton, Inc.  
         Ms. Yvette Vacheron, Mr. Paul Vacheron, Mr. Robert Vacheron, and Mr. Phillip Vacheron (c/o  
         Ms. Yvette Vacheron)  
         Mr. Phillip S. Rosenburg, Brown and Caldwell  
         Ms. Barbara Goodrich-Welk, Brown and Caldwell

***California Environmental Protection Agency***



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

**Recording Requested By:**

Easton Properties I, LLC  
Jim Easton, Manager  
7855 Haskell Avenue, #350  
Van Nuys, CA 91406

**When Recorded, Mail To:**

Tracy J. Egoscue, Executive Officer  
California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

**COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY**

Easton Sports, Inc. Site  
7800 & 7824 Haskell Avenue, Van Nuys, California 91406  
APN: 2206-001-020  
LARWQCB SCP CASE [SITE ID NO. 2040313]

This Covenant and Environmental Restriction on Property ("Covenant")<sup>1</sup> is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Easton Properties I, LLC, a California limited liability company ("Covenantor") who is the Owner of record of that certain property situated at 7800 & 7824 Haskell Avenue, Van Nuys, California 91406, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Los Angeles Region ("Board"), with reference to the following facts:

A. Nature of Covenant. This Covenant is an environmental covenant provided for by Civil Code section 1471 and required by the Board pursuant to Water Code section 13307.1 because the Burdened Property is contaminated by hazardous materials as defined in section 25260 of the Health and Safety Code.

B. Contamination of the Burdened Property. The soil and soil vapor at the Burdened Property was contaminated by solvent and oil use conducted by previous owners, tenants and/or adjacent industrial activities. The known contamination originally consisted of organic chemicals including tetrachloroethylene (PCE), related chlorinated solvents and lesser amounts of petroleum hydrocarbons, which constitute hazardous materials. By means of establishing the

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<sup>1</sup> This Covenant supersedes a previous Covenant and Environmental Restriction on Property between the Covenantor and the Board which was completed on August 14, 2009, and recorded in the Official Records of the Recorder's Office, Los Angeles County, California, as Document Number 20091277290.



vertical and lateral extent of contaminated soil, removing underground tanks, importing clean fill, performance of soil vapor extraction, and natural attenuation, the known contamination has been significantly reduced. Although that concentration (if widespread) would be unacceptable for residential exposures, the risk for commercial or industrial use is acceptable based on generally accepted risk assessment criteria. The human health risk study authored by Brown and Caldwell dated 7 November 2008 was evaluated by the California Office of Environmental Health Hazard Assessment (OEHHA).

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil at the Burdened Property. Any changes to the property involving grading, excavation, trenching, backfilling, or other earth work could result in exposure to these contaminants via direct contact, surface-water runoff, and wind dispersal, resulting in dermal contact, inhalation or ingestion by humans, etc. Brown and Caldwell prepared a *Human Health Risk Assessment* dated 14 November 2008. Using accepted industrial/commercial exposure assumptions, the total incremental cancer risk was calculated to be  $5 \times 10^{-7}$  (with arsenic<sup>2</sup> excluded) for outdoor workers and  $1 \times 10^{-7}$  for indoor air spaces, which are both less than the generally accepted workplace risk standard of  $1 \times 10^{-5}$ .

D. Land Uses and Population Potentially Affected. The Burdened Property is used for industrial and commercial land use and is adjacent to industrial, commercial, and residential land uses.

E. Disclosure and Sampling. Disclosure of the presence of hazardous materials on the Burdened Property has been made to the Board and extensive sampling of the Burdened Property has been conducted.

F. Use of Burdened Property. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that might result from any hazardous materials that might remain deposited on portions of the Burdened Property.

## ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. These Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors, assigns, and lessees thereof for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions: (a) are

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<sup>2</sup> Arsenic in soil is presumed to be naturally-occurring at the Site.

imposed upon the entire Burdened Property, unless expressly stated as applicable to a specific portion of the Burdened Property; (b) run with the land pursuant to section 1471 of the Civil Code; and (c) are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, and possessors of all or any portion of the Burdened Property shall become Owners or Occupants as defined herein and shall be deemed by their purchase, leasing, or possession of the Burdened Property to be bound by the Restrictions and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions herein established must be adhered to for the benefit of the Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions shall be incorporated in and attached to each and all deeds and leases of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

## ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board, Los Angeles Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, structures, roads, driveways, gradings, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and Covenantor's successors in interest who hold title to all or any portion of the Burdened Property.

## ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of



the Burdened Property as follows:

- a. Development and use of the Burdened Property shall be restricted to industrial, commercial, and/or office space;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No public or private schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No care or community centers for children or senior citizens, or other uses that would involve the regular congregation of children or senior citizens, shall be authorized on the Burdened Property;
- f. No Owner or Occupant shall conduct or permit any excavation work on the Burdened Property, unless expressly permitted in writing by the Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by the Owner, Owner's agent, Occupant or Occupant's agent in accordance with all applicable provisions of local, state and federal law;
- g. Any excavation conducted on the Burdened Property shall be performed pursuant to an appropriate and fully implemented Health and Safety Plan approved by the Board;
- h. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated herein by reference, and including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly permitted in writing by the Board;
- i. No Owner or Occupant shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board; nor shall the Owner or Occupant permit or engage any third party to do such acts;
- j. The Owner and Occupant shall notify the Board of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notifications to the Board shall be made by registered mail within ten (10) working days of both the date of discovery of such disturbance and the date of completion of repairs;

k. The Covenantor agrees that the Board, and any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring as provided in Division 7 of the Water Code; and

l. No Owner or Occupant shall act in any manner that threatens or is likely to aggravate or contribute to the existing contaminated conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the Restrictions set forth in Paragraph 3.1 shall be grounds for the Board, by the authority of this Covenant, to require that the Owner or Occupant modify or remove, or cause to be modified or removed, any Improvements constructed in violation of that Paragraph. Violation of this Covenant shall also be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to all or any portion of the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils under the property, and is subject to a Covenant and Environmental Restriction dated as of \_\_\_\_\_, 20\_\_\_\_, and recorded on \_\_\_\_\_, 20\_\_\_\_, in the Official Records of Los Angeles County, California, as Document No. \_\_\_\_\_, which Covenant and Environmental Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

#### ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with Paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V  
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (a) when delivered, if personally delivered to the person being served or an official of a government agency being served, or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, addressed:

*If To: "Covenantor"*  
Easton Properties I, LLC  
Jim Easton, Manager  
7855 Haskell Avenue, #350  
Van Nuys, CA 91406

*If To: "Board"*  
Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined by a court having jurisdiction to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.5 References. All references to Code sections include successor provisions.

5.6 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to preserve and implement the purpose of this instrument and the policies and purposes of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.



IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of \_\_\_\_\_

On \_\_\_\_\_, 2009 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public (Notary Seal)

California Regional Water Quality Control Board, Los Angeles Region

Print Name: Tracy J. Egoscue

Signature: \_\_\_\_\_

Title: Executive Officer

Date: 9/22/09

### CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

On September 22, before me, C. Guzman, Notary Public, personally appeared Tracy J. Egoscue, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

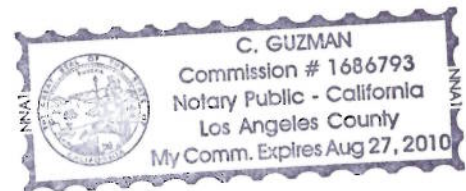




EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Referring to the City of Los Angeles, County of Los Angeles, State of California:

Lots 1, 2 and 3 of Tract No. 24190, as per Map recorded in Book 645, Pages 39-41 of Maps, in the Office of the County Recorder of said County.

**Recording Requested By:**

Yvette Vacheron  
13262 Courtland Terrace  
San Diego, CA 92130

**When Recorded, Mail To:**

Tracy J. Egoscue, Executive Officer  
California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

**COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY**

Easton Sports, Inc. Site  
7834 Haskell Avenue, Van Nuys, California 91406  
APN: 2206-001-004  
LARWQCB SCP CASE [SITE ID NO. 2040313]

This Covenant and Environmental Restriction on Property ("Covenant") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Yvette Vacheron, Paul Vacheron, Robert Vacheron, and Phillip Vacheron, as tenants in common ("Covenantor") who are the Owner of record of that certain property situated at 7834 Haskell Avenue, Van Nuys, California 91406, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Los Angeles Region ("Board"), with reference to the following facts:

A. Nature of Covenant. This Covenant is an environmental covenant provided for by Civil Code section 1471 and required by the Board pursuant to Water Code section 13307.1 because the Burdened Property is contaminated by hazardous materials as defined in section 25260 of the Health and Safety Code.

B. Contamination of the Burdened Property. The soil and soil vapor at the Burdened Property was contaminated by solvent and oil use conducted by previous owners, tenants and/or adjacent industrial activities. The known contamination originally consisted of organic chemicals including tetrachloroethylene (PCE), related chlorinated solvents and lesser amounts of petroleum hydrocarbons, which constitute hazardous materials. By means of establishing the vertical and lateral extent of contaminated soil, removing underground tanks, importing clean fill, performance of soil vapor extraction, and natural attenuation, the known contamination has been significantly reduced. Although that concentration (if widespread) would be unacceptable for residential exposures, the risk for commercial or industrial use is acceptable based on generally accepted risk assessment criteria. The human health risk study authored by Brown and



Caldwell dated 7 November 2008 was evaluated by the California Office of Environmental Health Hazard Assessment (OEHHA).

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil at the Burdened Property. Any changes to the property involving grading, excavation, trenching, backfilling, or other earth work could result in exposure to these contaminants via direct contact, surface-water runoff, and wind dispersal, resulting in dermal contact, inhalation or ingestion by humans, etc. Brown and Caldwell prepared a *Human Health Risk Assessment* dated 14 November 2008. Using accepted industrial/commercial exposure assumptions, the total incremental cancer risk was calculated to be  $5 \times 10^{-7}$  (with arsenic<sup>1</sup> excluded) for outdoor workers and  $3 \times 10^{-8}$  for indoor air spaces, which are both less than the generally accepted workplace risk standard of  $1 \times 10^{-5}$ .

D. Land Uses and Population Potentially Affected. The Burdened Property is used for industrial and commercial land use and is adjacent to industrial, commercial, and residential land uses.

E. Disclosure and Sampling. Disclosure of the presence of hazardous materials on the Burdened Property has been made to the Board and extensive sampling of the Burdened Property has been conducted.

F. Use of Burdened Property. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that might result from any hazardous materials that might remain deposited on portions of the Burdened Property.

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1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. These Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors, assigns, and lessees thereof for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions: (a) are imposed upon the entire Burdened Property, unless expressly stated as applicable to a specific portion of the Burdened Property; (b) run with the land pursuant to section 1471 of the Civil Code; and (c) are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, and

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<sup>1</sup> Arsenic in soil is presumed to be naturally-occurring at the Site.

possessors of all or any portion of the Burdened Property shall become Owners or Occupants as defined herein and shall be deemed by their purchase, leasing, or possession of the Burdened Property to be bound by the Restrictions and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions herein established must be adhered to for the benefit of the Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions shall be incorporated in and attached to each and all deeds and leases of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

## ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board, Los Angeles Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, structures, roads, driveways, gradings, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and Covenantor's successors in interest who hold title to all or any portion of the Burdened Property.

## ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

a. Development and use of the Burdened Property shall be restricted to industrial, commercial, and/or office space;



- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No public or private schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No care or community centers for children or senior citizens, or other uses that would involve the regular congregation of children or senior citizens, shall be authorized on the Burdened Property;
- f. No Owner or Occupant shall conduct or permit any excavation work on the Burdened Property, unless expressly permitted in writing by the Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by the Owner, Owner's agent, Occupant or Occupant's agent in accordance with all applicable provisions of local, state and federal law;
- g. Any excavation conducted on the Burdened Property shall be performed pursuant to an appropriate and fully implemented Health and Safety Plan approved by the Board;
- h. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated herein by reference, and including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly permitted in writing by the Board;
- i. No Owner or Occupant shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board; nor shall the Owner or Occupant permit or engage any third party to do such acts;
- j. The Owner and Occupant shall notify the Board of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notifications to the Board shall be made by registered mail within ten (10) working days of both the date of discovery of such disturbance and the date of completion of repairs;
- k. The Covenantor agrees that the Board, and any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring as provided in Division 7 of the Water Code; and

1. No Owner or Occupant shall act in any manner that threatens or is likely to aggravate or contribute to the existing contaminated conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the Restrictions set forth in Paragraph 3.1 shall be grounds for the Board, by the authority of this Covenant, to require that the Owner or Occupant modify or remove, or cause to be modified or removed, any Improvements constructed in violation of that Paragraph. Violation of this Covenant shall also be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to all or any portion of the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils under the property, and is subject to a Covenant and Environmental Restriction dated as of \_\_\_\_\_, 20\_\_\_\_, and recorded on \_\_\_\_\_, 20\_\_\_\_, in the Official Records of Los Angeles County, California, as Document No. \_\_\_\_\_, which Covenant and Environmental Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

#### ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with Paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

#### ARTICLE V MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.



5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (a) when delivered, if personally delivered to the person being served or an official of a government agency being served, or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, addressed:

*If To: "Covenantor"*  
Yvette Vacheron  
13262 Courtland Terrace  
San Diego, CA 92130

*If To: "Board"*  
Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined by a court having jurisdiction to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.5 References. All references to Code sections include successor provisions.

5.6 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to preserve and implement the purpose of this instrument and the policies and purposes of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of \_\_\_\_\_

On \_\_\_\_\_, 2009 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

California Regional Water Quality Control Board, Los Angeles Region

Print Name: Tracy J. Egoscue

Signature: \_\_\_\_\_

Title: Executive Officer

Date: \_\_\_\_\_

### CERTIFICATE OF ACKNOWLEDGMENT

State of California

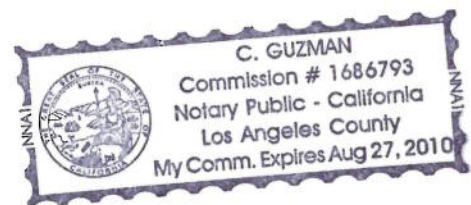
County of Los Angeles

On September 22, before me, C. Guzman, Notary Public, personally appeared Tracy J. Egoscue, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public



(Notary Seal)



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Referring to the City of Los Angeles, County of Los Angeles, State of California:

Lot 4 of Tract No. 24190, as per Map recorded in Book 645, Pages 39, 40, and 41 of Maps, in the Office of the County Recorder of said County.

**Recording Requested By:**

LAD Partnership  
Jim Easton, Managing Partner  
7855 Haskell Avenue, #350  
Van Nuys, CA 91406

**When Recorded, Mail To:**

Tracy J. Egoscue, Executive Officer  
California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

**COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY**

Easton Sports, Inc. Site  
7850 Haskell Avenue, Van Nuys, California 91406  
APN: 2206-001-017  
LARWQCB SCP CASE [SITE ID NO. 2040313]

This Covenant and Environmental Restriction on Property ("Covenant")<sup>1</sup> is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by LAD Partnership, a General Partnership ("Covenantor") who is the Owner of record of that certain property situated at 7850 Haskell Avenue, Van Nuys, California 91406, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Los Angeles Region ("Board"), with reference to the following facts:

A. Nature of Covenant. This Covenant is an environmental covenant provided for by Civil Code section 1471 and required by the Board pursuant to Water Code section 13307.1 because the Burdened Property is contaminated by hazardous materials as defined in section 25260 of the Health and Safety Code.

B. Contamination of the Burdened Property. The soil and soil vapor at the Burdened Property was contaminated by solvent and oil use conducted by previous owners, tenants and/or adjacent industrial activities. The known contamination originally consisted of organic chemicals including tetrachloroethylene (PCE), related chlorinated solvents and lesser amounts of petroleum hydrocarbons, which constitute hazardous materials. By means of establishing the

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<sup>1</sup> This Covenant supersedes a previous Covenant and Environmental Restriction on Property between the Covenantor and the Board which was completed on August 14, 2009, and recorded in the Official Records of the Recorder's Office, Los Angeles County, California, as Document Number 20091277289.

vertical and lateral extent of contaminated soil, removing underground tanks, importing clean fill, performance of soil vapor extraction, and natural attenuation, the known contamination has been significantly reduced. Although that concentration (if widespread) would be unacceptable for residential exposures, the risk for commercial or industrial use is acceptable based on generally accepted risk assessment criteria. The human health risk study authored by Brown and Caldwell dated 7 November 2008 was evaluated by the California Office of Environmental Health Hazard Assessment (OEHHA).

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil at the Burdened Property. Any changes to the property involving grading, excavation, trenching, backfilling, or other earth work could result in exposure to these contaminants via direct contact, surface-water runoff, and wind dispersal, resulting in dermal contact, inhalation or ingestion by humans, etc. Brown and Caldwell prepared a *Human Health Risk Assessment* dated 14 November 2008. Using accepted industrial/commercial exposure assumptions, the total incremental cancer risk was calculated to be  $5 \times 10^{-7}$  (with arsenic<sup>2</sup> excluded) for outdoor workers and  $2 \times 10^{-7}$  for indoor air spaces, which are both less than the generally accepted workplace risk standard of  $1 \times 10^{-5}$ .

D. Land Uses and Population Potentially Affected. The Burdened Property is used for industrial and commercial land use and is adjacent to industrial, commercial, and residential land uses.

E. Disclosure and Sampling. Disclosure of the presence of hazardous materials on the Burdened Property has been made to the Board and extensive sampling of the Burdened Property has been conducted.

F. Use of Burdened Property. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that might result from any hazardous materials that might remain deposited on portions of the Burdened Property.

## ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. These Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors, assigns, and lessees thereof for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions: (a) are

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<sup>2</sup> Arsenic in soil is presumed to be naturally-occurring at the Site.



imposed upon the entire Burdened Property, unless expressly stated as applicable to a specific portion of the Burdened Property; (b) run with the land pursuant to section 1471 of the Civil Code; and (c) are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, and possessors of all or any portion of the Burdened Property shall become Owners or Occupants as defined herein and shall be deemed by their purchase, leasing, or possession of the Burdened Property to be bound by the Restrictions and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions herein established must be adhered to for the benefit of the Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions shall be incorporated in and attached to each and all deeds and leases of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

## ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board, Los Angeles Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, structures, roads, driveways, gradings, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and Covenantor's successors in interest who hold title to all or any portion of the Burdened Property.

## ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of

the Burdened Property as follows:

- a. Development and use of the Burdened Property shall be restricted to industrial, commercial, and/or office space;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No public or private schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No care or community centers for children or senior citizens, or other uses that would involve the regular congregation of children or senior citizens, shall be authorized on the Burdened Property;
- f. No Owner or Occupant shall conduct or permit any excavation work on the Burdened Property, unless expressly permitted in writing by the Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by the Owner, Owner's agent, Occupant or Occupant's agent in accordance with all applicable provisions of local, state and federal law;
- g. Any excavation conducted on the Burdened Property shall be performed pursuant to an appropriate and fully implemented Health and Safety Plan approved by the Board;
- h. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated herein by reference, and including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly permitted in writing by the Board;
- i. No Owner or Occupant shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board; nor shall the Owner or Occupant permit or engage any third party to do such acts;
- j. The Owner and Occupant shall notify the Board of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notifications to the Board shall be made by registered mail within ten (10) working days of both the date of discovery of such disturbance and the date of completion of repairs;

k. The Covenantor agrees that the Board, and any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring as provided in Division 7 of the Water Code; and

1. No Owner or Occupant shall act in any manner that threatens or is likely to aggravate or contribute to the existing contaminated conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the Restrictions set forth in Paragraph 3.1 shall be grounds for the Board, by the authority of this Covenant, to require that the Owner or Occupant modify or remove, or cause to be modified or removed, any Improvements constructed in violation of that Paragraph. Violation of this Covenant shall also be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to all or any portion of the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils under the property, and is subject to a Covenant and Environmental Restriction dated as of \_\_\_\_\_, 20\_\_\_\_, and recorded on \_\_\_\_\_, 20\_\_\_\_, in the Official Records of Los Angeles County, California, as Document No. \_\_\_\_\_, which Covenant and Environmental Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

#### ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with Paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.



ARTICLE V  
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (a) when delivered, if personally delivered to the person being served or an official of a government agency being served, or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, addressed:

*If To: "Covenantor"*  
LAD Partnership  
Jim Easton, Managing Partner  
7855 Haskell Avenue, #350  
Van Nuys, CA 91406

*If To: "Board"*  
Regional Water Quality Control Board  
Los Angeles Region  
Attention: Executive Officer  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined by a court having jurisdiction to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.5 References. All references to Code sections include successor provisions.

5.6 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to preserve and implement the purpose of this instrument and the policies and purposes of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of \_\_\_\_\_

On \_\_\_\_\_, 2009 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

California Regional Water Quality Control Board, Los Angeles Region

Print Name: Tracy J. Egoscue

Signature: \_\_\_\_\_

Title: Executive Officer

Date: \_\_\_\_\_

### CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

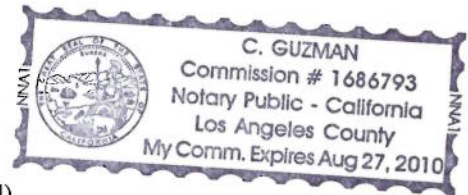
On September 22, before me, C. Guzman, Notary Public, personally appeared Tracy J. Egoscue, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)





## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

Lots 5 and 6 of Tract No. 24190 in the City of Los Angeles, in the County of Los Angeles, State of California, as per Map recorded in Book 645, Pages 39, 40 and 41 of Maps, in the Office of the County Recorder of said County.